

Senate Study Bill 1207 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON SENG)

A BILL FOR

1 An Act relating to the state government, by providing for
2 the transfer of powers and duties from the agricultural
3 development authority to the Iowa finance authority,
4 the composition of the Iowa finance authority board of
5 directors, the administration of programs by the board, the
6 implementation of law by the board, and including effective
7 date provisions.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I
GENERAL PROVISIONS

Section 1. Section 16.1, subsection 1, Code 2013, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *0c.* "Board" means the Iowa finance authority board of directors created pursuant to section 16.2.

NEW PARAGRAPH. *0j.* "Executive director" means the executive director of the Iowa finance authority as appointed pursuant to section 16.6.

Sec. 2. NEW SECTION. 16.1A Creation — administration of programs.

1. The Iowa finance authority is created, and constitutes a public instrumentality and agency of the state exercising public and essential governmental functions.

2. The authority shall undertake and administer the following:

a. Programs established under this chapter to assist in attainment of adequate housing for low-or moderate-income families, elderly families, and families which include one or more persons with disabilities, and to undertake the various finance programs under this chapter.

b. Programs which assist qualified farmers or agricultural producers, including beginning farmers, as provided in chapter 175.

3. The Iowa finance authority board of directors shall have general control, supervision, and regulation of all authority programs established under this chapter and chapter 175. The authority is charged with the broad administrative authority to make, administer, interpret, construe, repeal, and execute the rules, and to administer, interpret, construe, and execute the laws of this state relating to such programs. The board may, by resolution, delegate to the executive director or other authority employee such of its powers, under such terms and conditions, as it deems appropriate.

4. A program established in this chapter may be combined

1 with any other program authorized in this chapter, under
2 chapter 175, or under a federal program in order to facilitate
3 as far as practicable the acquisition of agricultural land
4 and property by beginning farmers or to facilitate the
5 implementation of permanent soil and water conservation
6 practices and the acquisition of conservation farm equipment as
7 provided in chapter 175.

8 Sec. 3. Section 16.2, subsection 1, Code 2013, is amended
9 to read as follows:

10 1. ~~The Iowa finance authority is established, and~~
11 ~~constituted a public instrumentality and agency of the state~~
12 ~~exercising public and essential governmental functions, to~~
13 ~~undertake programs which assist in attainment of adequate~~
14 ~~housing for low or moderate income families, elderly~~
15 ~~families, and families which include one or more persons with~~
16 ~~disabilities, and to undertake the various finance programs.~~
17 The powers of the authority are vested in and shall be
18 exercised by a an Iowa finance authority board of directors.
19 The board shall be composed of nine members appointed by the
20 governor subject to confirmation by the senate.

21 a. ~~No~~ Not more than five members shall belong to the same
22 political party.

23 b. As far as possible, the governor shall include within
24 the membership persons who represent community and housing
25 development industries, housing finance industries, the real
26 estate sales industry, elderly families, minorities, lower
27 income families, very low income families, families which
28 include persons with disabilities, average taxpayers, local
29 government, business interests, and any other person specially
30 interested in community housing, finance, or small business.

31 c. At least two members shall be individuals engaged in
32 actual farming operations who are specially interested in
33 family farm development.

34 Sec. 4. Section 16.103, subsection 1, Code 2013, is amended
35 to read as follows:

1 1. Make secured and unsecured loans for both the acquisition
2 and the construction of projects on terms the authority
3 determines. ~~Any loan made with respect to any project for~~
4 ~~which a loan may be made pursuant to chapter 175 shall be made~~
5 ~~only upon the request and with the consent of the agricultural~~
6 ~~development authority. The loans~~ A loan may be made to any
7 person or entity including, but not limited to, a city, a or
8 county, ~~and the agricultural development authority for projects~~
9 a project approved by the Iowa finance authority. The Iowa
10 finance authority may take any action which is reasonable and
11 lawful to protect its security and to avoid losses from its
12 loans.

13 Sec. 5. Section 175.2, subsection 1, paragraph e, Code 2013,
14 is amended to read as follows:

15 e. "Authority" means the ~~agricultural development Iowa~~
16 finance authority ~~established~~ created in section ~~175.3~~ 16.1A.

17 Sec. 6. Section 175.2, subsection 1, Code 2013, is amended
18 by adding the following new paragraphs:

19 NEW PARAGRAPH. *Oh.* "Board" means the Iowa finance authority
20 board of directors created pursuant to section 16.1A.

21 NEW PARAGRAPH. *Ok.* "Executive director" means the executive
22 director of the Iowa finance authority appointed pursuant to
23 section 16.6.

24 Sec. 7. Section 175.3, Code 2013, is amended by striking the
25 section and inserting in lieu thereof the following:

26 **175.3 Authority — administration of this chapter.**

27 1. The authority shall administer this chapter in addition
28 to its administration of chapter 16.

29 2. In administering this chapter, the authority shall do all
30 of the following:

31 a. Provide for programs which assist beginning farmers in
32 purchasing agricultural land and agricultural improvements and
33 depreciable agricultural property for the purpose of farming,
34 and programs which provide financing to farmers for permanent
35 soil and water conservation practices on agricultural land

1 within the state or for the acquisition of conservation farm
2 equipment, and programs to assist farmers within the state in
3 financing operating expenses and cash flow requirements of
4 farming.

5 *b.* Develop programs to assist qualified agricultural
6 producers within the state with financing other capital
7 requirements or operating expenses.

8 3. A program established in this chapter may be combined
9 with any other program established in this chapter, a program
10 established in chapter 16, or a federal program in order
11 to facilitate as far as practicable the acquisition of
12 agricultural land and property by beginning farmers or to
13 facilitate the implementation of permanent soil and water
14 conservation practices and the acquisition of conservation farm
15 equipment.

16 4. The board shall have general control, supervision,
17 and regulation of all authority programs established under
18 this chapter in the same manner as provided for in chapter 16
19 pursuant to section 16.1A.

20 Sec. 8. Section 175.4, subsection 11, Code 2013, is amended
21 to read as follows:

22 11. It is necessary to create an ~~agricultural development~~
23 authority to encourage ownership of farms by beginning farmers
24 by providing purchase money loans to beginning farmers who are
25 not able to obtain adequate capital elsewhere to provide such
26 funds and to lower costs through the use of public financing.

27 Sec. 9. Section 175.5, unnumbered paragraph 1, Code 2013,
28 is amended to read as follows:

29 In the performance of its duties, implementation of its
30 powers, selection of specific programs and projects to receive
31 its assistance as provided in section 175.3, the authority
32 shall be guided by the following principles:

33 Sec. 10. Section 175.6, unnumbered paragraph 1, Code 2013,
34 is amended to read as follows:

35 The authority has all of the general powers needed to carry

1 out its purposes and duties, and to exercise its specific
2 powers, under this chapter including but not limited to the
3 power to do any of the following:

4 Sec. 11. Section 175.8, subsection 1, unnumbered paragraph
5 1, Code 2013, is amended to read as follows:

6 ~~The authority shall submit to the governor and to the members~~
7 ~~of the general assembly as request it, not later than January~~
8 ~~15 of each year, a complete and economically designed and~~
9 ~~reproduced~~ As part of the authority's report setting forth:
10 required in section 16.7, the authority shall detail its
11 activities under this chapter, which shall include all of the
12 following:

13 Sec. 12. Section 175.8, subsections 3 and 4, Code 2013, are
14 amended to read as follows:

15 ~~3. For fiscal years beginning on or after July 1, 2007,~~
16 ~~the auditor of state shall conduct an annual audit of the~~
17 ~~agricultural development authority to be paid from resources~~
18 ~~of the authority notwithstanding any other audit conducted on~~
19 ~~behalf of the authority's board of directors. The auditor of~~
20 ~~state may acquire the services of an outside audit firm, if~~
21 ~~necessary, to conduct the audit as required in this subsection.~~

22 ~~4. 3.~~ 3. The authority's executive director, ~~appointed~~
23 ~~pursuant to section 175.7,~~ shall report semiannually to the
24 general assembly's standing committees on government oversight
25 regarding the operations of the authority.

26 Sec. 13. Section 175.26, Code 2013, is amended by striking
27 the section and inserting in lieu thereof the following:

28 **175.26 Conflicts of interest.**

29 The requirements and procedures for conflicts of interest
30 by a member or employee of the authority set forth in section
31 16.3A shall also apply to this chapter.

32 Sec. 14. REPEAL. Sections 175.7 and 175.11, Code 2013, are
33 repealed.

34 Sec. 15. EFFECTIVE DATE. This division of this Act takes
35 effect on July 1, 2013.

DIVISION II

COORDINATING PROVISIONS

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3 Sec. 16. Section 7C.4A, subsection 4, Code 2013, is amended
4 to read as follows:

5 4. Twenty-one percent of the state ceiling shall be
6 allocated to qualified small issue bonds issued for ~~first-time~~
7 beginning farmers under chapter 175. However, at any time
8 during the calendar year the governor's designee, with
9 the approval of the Iowa ~~agricultural development~~ finance
10 authority, may determine that a lesser amount need be allocated
11 to qualified small issue bonds for ~~first-time~~ beginning
12 farmers and on that date this lesser amount shall be the amount
13 allocated for those bonds and the excess shall be allocated
14 under subsection 7.

15 Sec. 17. Section 12.28, subsection 1, paragraph b, Code
16 2013, is amended to read as follows:

17 *b. "State agency"* means a board, commission, bureau,
18 division, office, department, or branch of state government.
19 However, state agency does not mean the state board of regents,
20 institutions governed by the board of regents, or authorities
21 created under chapter 16, ~~175~~, 257C, or 261A.

22 Sec. 18. Section 12.30, subsection 1, paragraph a, Code
23 2013, is amended to read as follows:

24 *a. "Authority"* means a department, or public or quasi-public
25 instrumentality of the state including but not limited to the
26 authority created under chapter 12E, 16, ~~175~~, 257C, 261A, or
27 463C, which has the power to issue obligations, except that
28 "*authority*" does not include the state board of regents or
29 the Iowa finance authority to the extent it acts pursuant to
30 chapter 260C. "*Authority*" also includes a port authority created
31 under chapter 28J.

32 Sec. 19. Section 16.1, subsection 1, paragraph b, Code 2013,
33 is amended to read as follows:

34 *b. "Authority"* means the Iowa finance authority ~~established~~
35 created in section ~~16.2~~ 16.1A.

1 Sec. 20. Section 159.18, subsection 1, Code 2013, is amended
2 to read as follows:

3 1. As used in this section, "*farm programs*" includes, but
4 is not limited to, financial incentive programs established
5 within the division of soil conservation of the department of
6 agriculture and land stewardship as provided in section 161A.70
7 and the beginning farmer loan program administered by the
8 ~~agricultural development~~ Iowa finance authority as provided in
9 section 175.12.

10 Sec. 21. Section 422.7, subsection 19, Code 2013, is amended
11 to read as follows:

12 19. Subtract interest earned on bonds and notes issued by
13 the ~~agricultural development~~ Iowa finance authority as provided
14 in section 175.17, subsection 10.

15 Sec. 22. Section 422.35, subsection 13, Code 2013, is
16 amended to read as follows:

17 13. Subtract the interest earned from bonds and notes issued
18 by the ~~agricultural development~~ Iowa finance authority as
19 provided in section 175.17, subsection 10.

20 Sec. 23. Section 455B.291, subsection 2, Code 2013, is
21 amended to read as follows:

22 2. "*Authority*" means the Iowa finance authority ~~established~~
23 created in section ~~16.2~~ 16.1A.

24 Sec. 24. Section 502.201, subsection 9B, Code 2013, is
25 amended to read as follows:

26 9B. ~~Agricultural development~~ Iowa finance authority. Any
27 security issued by the ~~agricultural development~~ Iowa finance
28 authority under chapter 175.

29 Sec. 25. EFFECTIVE DATE. This division of this Act takes
30 effect on July 1, 2013.

31 DIVISION III

32 TRANSITIONAL PROVISIONS — GENERAL

33 Sec. 26. ADMINISTRATIVE RULES AND OTHER ACTIONS AND
34 DOCUMENTS. Any rule, regulation, form, order, or directive
35 promulgated by agricultural development authority under the

1 umbrella of the department of agriculture and land stewardship
2 pursuant to section 175.3, Code 2013, as required to administer
3 and enforce the provisions of chapter 175 shall continue in
4 full force and effect until amended, repealed, or supplemented
5 by affirmative action of the Iowa finance authority.

6 Sec. 27. PENDING ADMINISTRATIVE OR JUDICIAL PROCEEDINGS.

7 1. An administrative or judicial proceeding arising under
8 chapter 175 pending on the effective date of this division of
9 this Act shall not be affected due to this Act.

10 2. Any cause of action or statute of limitation relating
11 to an action taken by a party in a matter arising under
12 chapter 175 shall not be affected by this Act, except that
13 the Iowa development authority shall replace the agricultural
14 development authority as a party.

15 3. The department of agriculture and land stewardship
16 or the office of attorney general acting on behalf of the
17 agricultural development authority in an administrative or
18 judicial proceeding shall not be affected as result of this
19 Act. Any statute of limitation shall apply to the parties as if
20 this Act had not been enacted.

21 Sec. 28. PERSONNEL. Any personnel in the state merit system
22 of employment who are transferred due to the effect of this Act
23 shall be so transferred without any loss in salary, benefits,
24 or accrued years of service.

25 Sec. 29. REPLACEMENT ITEMS. Any replacement of signs,
26 logos, stationery, insignia, uniforms, and related items that
27 are made due to the effect of this Act shall be done as part of
28 the normal replacement cycle for such items.

29 Sec. 30. IOWA FINANCE AUTHORITY BOARD OF DIRECTORS. Nothing
30 in this Act requires that a member serving on the Iowa finance
31 authority board of directors serve for less than a term of
32 office specified in section 16.2. However, two directors whose
33 terms end after the effective date of this division of this Act
34 shall be replaced by two individuals who are engaged in actual
35 farming operations as required in section 16.2, as amended by

1 this Act.

2 Sec. 31. OUTSTANDING LEGAL OBLIGATIONS AND RIGHTS. Any
3 interest in real property, tangible personal property,
4 or intangible personal property held by the agricultural
5 development authority shall be transferred to the Iowa finance
6 authority. Any property right, security interest, or lien
7 held by the agricultural development authority shall vest in
8 the Iowa finance authority without an instrument of transfer
9 including but not limited to a deed, contract, or endorsement.
10 However, nothing in this section prohibits the execution of
11 such instrument if the Iowa finance authority determines it
12 is necessary or prudent. Any debt, obligation, or liability
13 incurred by the agricultural development authority shall be
14 assumed by the Iowa finance authority, and shall continue
15 according to the same terms and conditions as applied to the
16 agricultural development authority. Any right or benefit
17 arising from a legal instrument in which the agricultural
18 development authority was a party shall be transferred to the
19 Iowa finance authority and shall continue as if the transfer
20 had not occurred.

21 Sec. 32. EFFECTIVE DATE. This division of this Act takes
22 effect July 1, 2013.

23 DIVISION IV

24 TRANSITIONAL PROVISIONS — REQUIREMENTS OF THE IOWA FINANCE
25 AUTHORITY AND THE AGRICULTURAL DEVELOPMENT AUTHORITY

26 Sec. 33. GENERAL. The Iowa finance authority shall provide
27 for the implementation of this Act according to a schedule
28 approved by the Iowa finance authority's board of directors
29 which is consistent with this Act.

30 Sec. 34. EMERGENCY RULEMAKING. The Iowa finance authority
31 may adopt emergency rules under section 17A.4, subsection 3,
32 and section 17A.5, subsection 2, paragraph "b", to implement
33 the provisions of this Act, and the rules shall be effective
34 July 1, 2013, unless a later date is specified in the rules.
35 Any rules adopted in accordance with this section shall also be

1 published as a notice of intended action as provided in section
2 17A.4.

3 Sec. 35. INTERAUTHORITY COOPERATION. The agricultural
4 development authority shall assist the Iowa finance authority
5 in implementing this Act by providing for an effective
6 transition of powers and duties from one authority to the other
7 authority under chapter 175 and related administrative rules.

8 Sec. 36. EFFECTIVE UPON ENACTMENT. This division of this
9 Act, being deemed of immediate importance, takes effect upon
10 enactment.

11 EXPLANATION

12 GENERAL. This bill provides that the powers and duties
13 of the agricultural development authority are transferred to
14 the Iowa finance authority. The agricultural development
15 authority administers programs under Code chapter 175 to assist
16 farmers, including beginning farmers, to start or expand their
17 operations. The Iowa finance authority administers programs
18 under Code chapter 16 to assist low-or moderate-income families
19 in attaining housing.

20 ADMINISTRATION. The agricultural development authority
21 is currently housed in the department of agriculture and
22 land stewardship. The Iowa finance authority and the
23 agricultural development authority are each headed by a board
24 of directors and each authority is supervised by an executive
25 director. Each authority is required to cooperate with lending
26 institutions in providing for affordable credit; and each may
27 issue bonds and notes in order to finance its programs.

28 OTHER SUBSTANTIVE CHANGES. The bill makes two other
29 substantive changes. It provides that the Iowa finance
30 authority board of directors has broad administrative authority
31 to make, interpret and construe its rules, and interpret and
32 construe the laws of this state relating to such programs.
33 The bill requires that two members of the board be involved
34 in farming. It eliminates a provision which requires the
35 state auditor to perform an annual audit of the agricultural

1 development authority. Currently, the state auditor may
2 periodically perform audits of the Iowa finance authority.

3 TRANSITIONAL PROVISIONS. The bill includes a number of
4 transitional provisions to assist the Iowa finance authority in
5 accomplishing the transfer and to effectuate the transfer of
6 legal rights and obligations.

7 The transitional provisions relate to the validity of
8 existing rules, regulations, forms, orders, and directives;
9 pending legal actions; the transfer of personnel; and the
10 replacement of items bearing the name of the agricultural
11 development authority. The bill provides for the transfer of
12 interests in real property, tangible personal property, and
13 intangible personal property as well as debts, obligations,
14 or liabilities incurred by the agricultural development
15 authority and any right or benefit obtained by the agricultural
16 development authority (e.g., through outstanding contracts).
17 The bill also provides that two members of the Iowa finance
18 authority's board of directors may serve out their terms before
19 being replaced by persons involved in farming. Finally, the
20 bill authorizes the Iowa finance authority to provide for the
21 implementation of the bill according to a schedule adopted by
22 its board of directors, provides the authority with emergency
23 rulemaking authority, and requires that the two authorities
24 cooperate in implementing the transition.

25 Generally, the bill takes effect on July 1. However,
26 provisions which authorize the Iowa development authority to
27 implement the bill take effect upon enactment.